

**Remarks of Clifford Franklin
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**Federal Communications Commission, Media Bureau
Second Public Workshop on the state of the Video Marketplace**

***Panel 2: Challenges Faced by Independent Programmers Seeking Carriage on Video
Distribution Platforms***

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I appreciate the opportunity to participate in today's panel on diverse and independent programming. As CEO of an online streaming platform, many of the questions being discussed in the Notice of Inquiry on Diverse and Independent Programming have been central focuses of GFNTV's business planning. Technology has presented the video marketplace with incredible opportunities. These opportunities, however, require action and vigilance to protect against those benefiting from our anti-competitive status quo.

GFNTV is an all video digital network. We have designed and built a platform that distributes premium urban video content that seamlessly runs on laptops, smart televisions, tablets and smart phones. We are aggregating, producing, and curating the best and most relevant content available. Our content includes comedy, drama, sports, documentaries, and news from all over the world.

GFNTV is in the business of disruption. The one industry that needs disrupting more than any industry is the television programming business. Minorities, but specifically African Americans have had their images shaped by television programming. We have literally been programmed by the programmers. We have been inundated with buffoonery, thugs and anti-social behavior for years and this imagery has a direct effect on society. And, we can't blame this on the handful of minority programmers. We have to blame it on a system that needs to embrace emerging technologies and emerging minority businesses.

Increasingly, consumers are turning to digital networks to be entertained. Finally, there are greater options for consumers who may not want to be relegated to music

videos and reruns of Good Times and Martin. A growing number of minority owned streaming services are focusing on African American content. And a growing number of independent filmmakers are developing original content in long and short form. They no longer have to beg Hollywood for a pilot show anymore. An open Internet allows for their pilot to be seen by millions in real time.

Online video is thriving. Advertising dollars are shifting to these video networks and soon will reach \$50 billion. Minority programmers no longer have to beg the cable operators for a channel only to see a few well-connected, hand picked African Americans be selected for distribution. But opponents, many who have had a virtual monopoly, continue to push against competition.

The ANA filed comments this past Friday basically saying that cable box competition is bad for advertisers. In its filed comments, the group argued that advertising plays "an important role in content creation, programming availability, and cost to consumers for such content" and that the rule change "will jeopardize advertising's many contributions to the economic and other interests of the public." It should be noted when reviewing the ANA's comments that they represent one of the most racially polarizing industries with a history of lack of diversity and discriminatory practices. Many of the largest African American ad agencies are a shell of themselves, with several going out of business in the past 3 years. This is due to members of the ANA that compensate minority agencies with a small fraction of the budget that they pay general market agencies. This is due to members of the ANA that have taken media budgets from minority agencies, and consolidating them at general market media buying shops. I was recently having dinner with one of my political consultant friends and he asked me how things were going with my ad agency, FUSE. I said things are going fine considering we make 10% of what you make for the same amount of work. There of course was the awkward 10 seconds of silence and then empathy.

The advertising industry, television and video programming go hand in hand. And these industries need to be disrupted. Minorities have been closed out since the beginning of these industries. We need more competition and not less.

Online video has globalized the video ecosystem. GFNTV and other OTT video programmers are engaging customers and content providers both domestically and abroad. Although the formal focus of this FCC proceeding is related to domestic

video programming, I urge the FCC to consider the international marketplace and how best to promote the growth and sustainability of US companies in the international marketplace. GFNTV is currently negotiating distribution in emerging markets in Africa. I will have a better opportunity for fair compensation and growth there, than in the U.S. unless this cartel is broken up and fairness is instituted.

We are now in a position where there is robust, highly entertaining urban video content available. But the reality is television is still the way to reach the masses. Fortunately, the FCC has the ability to create this opportunity for independent and minority programmers -- but it must act soon before cable operators can establish themselves as the only gatekeepers to the online video market. We need a path to greater distribution of this content and the way to do this is to have a competitive set top box or no set top box system. Online video minority programmers will not be able to grow and thrive with the current system.

The track record of the cable channels and telecoms is clear. It defies logic to have reasonable expectations that independent programmers will ever get a fair deal by negotiating with their competitors for carriage and compensation. Could we honestly believe Pepsi would have gotten anywhere if its growth and success were subject to the whims and wishes of Coke? Do we think Microsoft or Apple would have had any chance at success if they first had to get the blessing of IBM before they could sell any of their products? And, surely we are not so naïve to believe that Chrysler would have grown into a major producer of automobiles if Chrysler's only path to viability went through Ford. The economics of the cable industry present economic scenarios inherently opposed to independent participation.

I applaud those that continue to battle against the impossible economics of our current MVPD systems. The Estrella TV case against Comcast represents the best current illustration of the challenges faced by independent programmers.¹ According to the complaint filed in the Estrella case, Estrella TV was removed from cable systems in multiple markets. The network also alleges that it was denied compensation for carriage. Estrella TV further asserts that they were being forced to accept an agreement that would require Estrella to surrender its digital rights. Estrella also alleges that all of these disruptive actions were taken in order to benefit

¹ FCC Program Carriage Complaint filed by Liberman Broadcasting, Inc. and LBI Media, Inc. against Comcast Corporation and Comcast Cable Communications, LLC. Proceeding 12-1. April 8, 2016.

Estrella's Spanish language programming competitors, Telemundo and NBC Universo, both owned by Comcast. The complaint reads like a vertical integration economics exam hypothetical. The problem is that this is no hypothetical; it happens and I'm confident that this is not an isolated case.

Due to significant barriers and challenges to sustainability, GFNTV has focused on OTT models. Through the application of technology, we seek to present programming free from the constraints of a cable system that has led to the untimely demise of too many good ideas. New Urban Entertainment, a Quincy Jones backed venture, the Black Education Network, the Employment Channel and many others are unfortunate examples of our regulatory systems past failures in ensuring a free, open and non-discriminatory video marketplace.

Independent programmers, like other businesses, must have freedom of market access and freedom to set their own compensation models in these marketplaces. These OTT companies also need support in ensuring the playing field remains level and resistant to anti-competitive practices that accompany every advance in technology. The video marketplace is quickly migrating to streaming models. According to recent studies from Horowitz research, the number of households that stream video content has increased from 15% in 2010 to 57% in 2016.² If our laws and regulations need to evolve to best manage our video ecosystem, then I urge the FCC and Congress to do all that is necessary to protect future innovation.

Thank you.

² Horowitz Research Press release: *Opportunity for Over-the Top Providers in New Video Ecosystem; Broadcast Content is Key*. April 20, 2016.
<http://www.horowitzresearch.com/news/press-releases/opportunity-for-over-the-top-providers-in-new-video-ecosystem-broadcast-content-is-key/>